

**REMARKS****The Examiner's Objection to the Specification**

The Examiner objects to the use of the abbreviation "BM", specifically, the Office Action asserts that the specification uses the term without ever defining it. The specification has been amended to recite the definition. Support for the amendment can be found in the attached pages from Webster's Third New International Dictionary of the English Language. It is clear from the matter of the present application that the only appropriate definition among the definitions listed is "bowel movement".

**The Examiner's Objections to the Claims**

The Examiner's objection to the use of the term "having" has been addressed in the amendments to claim 1 above.

With regard to the Examiner's objection to the use of the phrase "an effective amount", this phrase is widely used in the same context in patent practice. For example, a

method for "controlling" fungus with "effective amount" of compound is not indefinite; "a term is only indefinite if one skilled in the relevant art would not understand what is claimed even when the claim is read in light of the specification."

Rhone-Poulenc Agrochime S.A. v. Biagro Western  
Sales, Inc., USPQ2d 1203, 1205 (E.D. Calif.1995)

Thus, the objection is improper and should be withdrawn.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Version with markings to show changes made**".

**The Examiner's 35 USC 102 Rejections****Foreman (US 4,738,677)**

The Examiner has rejected Claims 1-6, 15, and 17-19 under 35 USC 102(b) as being anticipated by Foreman (4,738,677).

The instant application discloses and claims absorbent articles having nonwoven cuffs comprising spunbond fibers having a denier less than about 1.3 and a hydrostatic head of at least about 85mm. Preferred embodiments of this absorbent article can have one or more

cuffs with a skin care composition disposed on (applied on or migratable to) the body surface of the cuffs. Importantly, the skin care compositions useful herein are readily transferable to the wearer's skin by way of normal contact, wearer motion, and/or body heat. Upon transfer to the skin, the skin care composition provides desirable therapeutic and/or protective coating benefits resulting in less red marking, erythema, diaper rash, skin irritation, and/or reducing the adherence of BM to the skin of the wearer, thereby improving the ease of BM clean up.

Foreman discloses an integral disposable absorbent article such as a diaper provided with an absorbent core; a liquid impervious backsheet; a first barrier cuff disposed adjacent each longitudinal edge of the absorbent article and each having a first proximal edge and a first distal edge; a spacing means for spacing the first distal edge of each of the first barrier cuffs away from the liquid-receiving surface of the absorbent article; and a second barrier cuff disposed adjacent at least one and preferably adjacent each of the end edges of the absorbent article and having a second proximal edge and a second distal edge, the distal edges of the barrier cuffs overlapping at corner points to form a containment pocket. The containment pocket has channels that are formed between the proximal edges and the distal edges because the distal edges of the barrier cuffs are spaced away from the liquid-receiving surface of the absorbent article.

While Foreman discloses absorbent articles comprising barrier cuffs, there is no contemplation of barrier cuffs comprising only spunbonded material of low microdenier. There is no contemplation of the use of microdenier cuffs in Foreman. The Examiner points out that a preferred material for use as a barrier cuff is "Celestra", and uses this disclosure to assert anticipation. However, "Celestra", as noted in the attached Declaration of Terrill A. Young, is not a microdenier fabric, while the use of a microdenier fabric is the essence of the instant invention. Therefore, Foreman cannot be considered to anticipate the instant invention.

The vast majority of nonwoven prior art cuffs, including those of Foreman, typically comprised a three layer laminate comprising 1) two outer layers of spunbonded material 2) an inner layer of meltblown material to provide a barrier to fluid. The use of the microdenier nonwovens in the instant cuffs permits the removal of the meltblown layer which is relatively stiff. The cuffs comprising the low denier nonwoven materials are softer and therefore less irritating to the skin than the prior art cuffs, while still providing a fluid barrier.

**Lawson (US 4,695,278)**

The Examiner also rejects instant claims 1-6, 15, and 17-19 in view of Lawson (4,695,278). Lawson discloses an absorbent article having a nonwoven cuff joined to the

chassis. Again, there is no anticipation of the use of a microdenier fabric as required by the instant application. As mentioned above, as "Celestra" is not a microdenier fabric, its use does not anticipate the instant application which requires use of a microdenier fabric (denier less than 1.3).

### **The Examiner's 35 USC 103 Rejections**

The Examiner has rejected instant claims 1-7 and 13-20 under 35 USC 103(a) as being unpatentable over Foreman, as applied to claims 1-6, 15, and 17-19.

As mentioned above, Foreman discloses an absorbent article with cuffs, however, there is nothing in a reading of the citation which would lead one of skill in the art to utilize a microdenier fabric in the cuffs as opposed to those fabrics which were already being used.

Additionally, the Examiner rejects these claims over Foreman, in view of Buckingham (4,556,560). Buckingham discloses methods for the treatment and prevention of diaper rash and diaper dermatitis which employ the topical application of a minimum inhibitory concentration of a pharmaceutically-acceptable lipase-inhibiting agent to the area in need of such treatment, or the area where prevention is desired. The lipase-inhibiting agent is preferably applied in combination with a barrier-like vehicle.

There is no contemplation in Buckingham of the desirability of utilizing microdenier fabrics in any diaper cuff. Therefore the combination of Foreman and Buckingham fails to overcome the deficiencies of Foreman alone and the combination would not lead one of skill in the art to the instant article.

Additionally, the lipase inhibiting agents of Buckingham can also be incorporated into the diaper structure, preferably into the absorbent core substrate or topsheet. The only other diaper structure to which Buckingham applies the agent is the core side of the backsheet. Column 15, lines 13-15, mentioned by the Examiner, states that the lipase inhibiting agents are incorporated into the diaper structure, contrary to the Examiner's assertion, it does not state that they are incorporated into the "skin contacting portions" of the diaper.

The Examiner also rejects instant claims 1-7, 9-11, and 13-20 under USC 103(a) as being unpatentable over Lawson and further in view of Roe (5,607,760). The patent application which resulted in the Roe patent was filed August 3, 1995. However, the instant application claims priority to USSN 08/345,159 which was filed November 28, 1994. Therefore the Roe patent is not available as a reference against the instant application which can claim priority to an earlier filed application.

Further, even if Roe was available as a reference, there is no contemplation in Roe of the use of a microdenier fabric, therefore, the combination of Lawson/Roe, in a manner similar to that of Foreman/Buckingham, does not render the instant invention obvious.

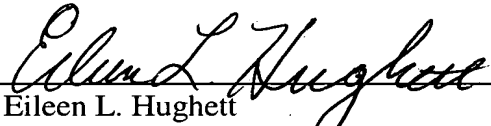
### CONCLUSION

For the foregoing reasons, Applicants respectfully submit that the applied references and reference combinations do not disclose or render obvious claims 1-20. In addition, the formality objections should be obviated by the amendments. Accordingly, favorable reconsideration of claims 1-20 is earnestly solicited in the form of a Notice of Allowance.

Should any issues impeding continuing examination of this Application remain, the Examiner is encouraged to contact the undersigned by telephone at the earliest possible date to achieve a timely resolution.

Respectfully submitted

FOR: TERRILL A. YOUNG, ET AL

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## VERSION WITH MARKINGS TO SHOW CHANGES MADE

### In the Specification

Please replace the paragraph beginning at page 5, line 31 and ending at page 6, line 2 with the following:

--Importantly, the skin care compositions described herein provide a protective and/or a therapeutic benefit upon transfer to the wearer's skin, including reducing erythema and/or diaper rash. The skin care composition may also act to minimize the abrasion between the cuffs and skin the the area where the cuffs contact the wearer's skin, resulting in less redmarking and/or skin irritation. Additionally, the protective coating on the wearer's skin may reduce the adherence of BM to the skin, thereby improving the ease of BM cleanup. As used herein, the abbreviation "BM" means "bowel movement".--

Basis for this definition can be found in Webster's third New International Dictionary of the English Language Unabridged, page 243, copy attached.

### In the Claims

Please amend claim 1 to read as follows:

1. (Amended) An absorbent article to be worn by a wearer adjacent the skin, the absorbent article comprising:  
a chassis comprising:  
an outer covering layer comprising:  
a backsheet; and  
a liquid pervious topsheet joined to said backsheet; and  
an absorbent core positioned between said topsheet and said backsheet;  
a nonwoven cuff joined to said chassis, wherein each said nonwoven cuff [having] has a first surface and a second surface disposed opposite said first surface, said nonwoven cuff comprising spunbond fibers [having] which have a denier less than about 1.3 and a hydrostatic head of at least about 85 mm.



# Third New International Dictionary

OF THE ENGLISH LANGUAGE  
UNABRIDGED

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one hundred years of Merriam-Webster® dictionaries*

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**board-a-match** (*bo:rd, a mat*) : being or relating to a method of scoring used in duplicate bridge whereby each board played between two teams of four counts one point for the team making the higher score on the board and  $\frac{1}{2}$  point for each team if they make the same score.



**blunderbuss**